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Commissioner Robert E. Nicolay, CPA  
Chairman, Certificate of Need Program Task Force  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215

Dear Commissioner Nicolay:

Holy Cross Hospital appreciates the opportunity to comment on Maryland's certificate of need process. Holy Cross Hospital supports the existence of a certificate of need program. It provides a valuable tool in shaping the health care delivery system in Maryland in ways that improve care for people using Maryland health care services. As the task force begins its evaluation of the CON process, we think it is most valuable to consider guiding principles that would in turn shape specific CON regulations. To that end, our comments at this time will be global in nature, focused on principles that we believe are most important.

1. **The certificate of need program should be used to promote improved access to underserved patient populations and to improve outcomes.** Certificate of need programs are typically described as promoting cost control, access and quality. Of those, Holy Cross Hospital believes there should be a strong bias toward using certificate of need to improve access (financial, cultural and linguistic) and clinical/safety outcomes. This bias should be reflected in the state health plan policies, standards, and preference criteria. It also should be reflected in the performance standards associated with approved projects.
2. **There should be a high bar for use of certificate of need. The CON process should be applied judiciously in ways that will be relevant to improving the overall health care system.** To this end, the capital threshold should be raised. The goal in setting the threshold should be to encompass projects that would create significant changes in delivery capacity. In addition, the state health plan standards should be revised to include only those that are directly relevant to the proposed project. Finally, there should be clearly articulated rationale (evidence of quality/volume correlation, significant infrastructure requirements, concern about access for vulnerable populations) for all services that require a certificate of need.

3. **The certificate of need standards and criteria should be updated.** For example, the standards should relate to current practice (e.g. COMAR10.24.10.06A(13) and (14) differentiate between labor and delivery rooms although combined labor, delivery and recovery rooms are commonly used in the state). The standards should address current industry guidelines (such as the American Institute of Architects square footage guidelines). The standards should reflect the current health care environment (for example, special considerations for AIDS care or for merged asset systems are no longer necessary).
4. **Certificate of need regulations should be developed within the context of the Maryland health care environment.** Specifically, any changes to the CON program must take into consideration the effect of Maryland's rate regulation system. In addition, the CON program should take into consideration the fact that Maryland borders on five other jurisdictions, and the providers that serve border communities exist in an environment that is affected by the amount and nature of regulation in those other jurisdictions.
5. **There should be a bias toward a simplified process.** As discussed above, the CON standards should be specifically related to the proposed project or to clearly identified goals for shaping the health care system. The process should not be so legalistic that an application cannot be pursued without specialized legal counsel.

Sincerely,



Kevin J. Sexton  
President & CEO